

**§IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Lt. Commander Kenneth J. Whitwell,
U. S. Navy,

Plaintiff,

v.

Archmere Academy, Inc., a Delaware
corporation;
The Catholic Diocese of Wilmington, Inc.,
a Delaware corporation;
Rev. Edward Smith, individually and
in his official capacity; and
Rev. Michael A. Saltarelli, in his official
capacity,

Defendants.

C. A. No.: 05 CV 796 SLR

TRIAL BY JURY DEMANDED

MOTION TO DISMISS OF DEFENDANT, ARCHMERE ACADEMY, INC.

By and through below-signed counsel, Defendant Archmere Academy, Inc. (“Archmere”) hereby moves to dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. As set forth more fully in the Opening Brief in Support of Archmere’s Motion to Dismiss to be filed according to the dates set forth in the Stipulated Briefing Schedule, subject to the approval of the Court, the Complaint fails to state a claim upon which relief can be granted because, *inter alia*, all of the claims against Archmere are barred by the applicable statute of limitations.

WHEREFORE, Archmere respectfully moves this Honorable Court for an ORDER granting the moving defendant’s Motion to Dismiss.

Respectfully submitted,

ELZUFON AUSTIN REARDON
TARLOV & MONDELL, P.A.

/s/ Mark L. Reardon

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Dated: March 27, 2006

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